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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

In re D.A., a Person Coming Under the  
Juvenile Court Law.

FRESNO COUNTY DEPARTMENT OF  
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

M.A.,

Defendant and Appellant.

F056956

(Super. Ct. No. 03CEJ300106)

**OPINION**

**THE COURT**\*

APPEAL from orders of the Superior Court of Fresno County. Jane A. Cardoza,  
Judge.

Mara Carman, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Kevin Briggs, Interim County Counsel, and William G. Smith, Deputy County  
Counsel, for Plaintiff and Respondent.

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\* Before Vartabedian, Acting P.J., Cornell, J., and Gomes, J.

M.A. appeals from an order terminating his parental rights (Welf. & Inst. Code, § 366.26) to his daughter, D.<sup>1</sup> He contends the court erred by denying his parents' request for de facto parent status. Having concluded appellant lacks standing to complain of the court's ruling, we affirm.

### **PROCEDURAL AND FACTUAL HISTORY**

In April 2007, when D. was less than two years old, her mother gave birth to another child who, along with the mother, tested positive for methamphetamine. The newborn was detained and a protective order was issued for D., who was in appellant's custody. Instead of surrendering D. to respondent Fresno County Department of Children and Family Services (department), appellant and apparently the mother took D. out of the county. D.'s whereabouts remained unknown for many months.

A child abduction unit located D. on New Year's Eve 2007. She had been staying with her paternal grandparents (the grandparents) in Southern California. The department pursued dependency proceedings as to D. but allowed her to remain in the grandparents' home.

The Fresno County Superior Court exercised its dependency jurisdiction over D. based on the mother's substance-abuse-induced neglect and appellant's failure to adequately protect D. (§ 300, subd. (b) & (j)). In April 2008, the court adjudged D. a dependent child, removed her from parental custody, and denied both parents reunification services based on their failure to reunify with D.'s sibling (§ 361.5, subd. (b)(10)).<sup>2</sup> In addition, the court set a hearing pursuant to section 366.26 to select and implement a permanent plan for D.

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<sup>1</sup> All statutory references are to the Welfare and Institutions Code unless otherwise indicated.

<sup>2</sup> At the same hearing, the court terminated the parents' right to the child who was born in April 2007 and had tested positive for drugs.

The following month the grandfather reported his family was unable to provide D. with a permanent home. He also felt it would be in her best interest to live with her sibling who had been freed for adoption. As a result, the court authorized D.'s placement in foster care in June 2008. Since then, D. has lived in the same home as her younger sibling.

In the fall of 2008, the grandparents submitted a written request for de facto parent status. In an attached statement, they claimed they had cared for D. as if she were their daughter for approximately five months. In addition, the grandparents expressed doubts about D.'s new placement and whether the new caregivers would permit visitation. The grandparents also claimed if they could not have visitation, they wanted to adopt D. They believed their decision to have D. live with her younger sibling in the foster parents' care had been a mistake.

After a series of continuances, the superior court conducted its section 366.26 hearing as well as a hearing on the grandparents' request in January 2009. Meanwhile, the department filed a series of reports: the first recommending the court find D. likely to be adopted and order parental rights terminated; the second disclosing that a three-month schedule for visits between D. and the grandparents had been established and there was a plan to set additional visitation dates; and the third opposing the de facto parent request.

Attached to the third report was a court-ordered bonding study, in which appellant failed to participate.<sup>3</sup> The bonding study revealed D. and her mother did not share a healthy parent/child relationship. By contrast, the therapist who conducted the study opined D. was very attached to her foster parents and could reach her full potential by remaining with and being adopted by the foster parents who provided love and support to the child. Remaining with the foster parents would also allow D. the opportunity to be raised with her biological sister and for them to remain a family.

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<sup>3</sup> Appellant also had failed to take advantage of the opportunity to visit D.

At the January 2009 hearing, it was undisputed that D. was likely to be adopted. The hearing focused instead on the grandparents' de facto parent status request. The court heard argument from counsel for each party as well as the grandparents. Appellant's counsel joined in the grandparents' request. Attorneys for the department and the child argued the purpose of granting de facto parent status was to provide the court with helpful input as to a child, not to sabotage or undermine the current care providers in their attempt to provide the child with a permanent home through adoption. No oral testimony was offered. The matter was submitted on the department's various reports and the grandparent's request and attached statement.

The court denied the grandparents' request noting its agreement with the arguments made by the department's and D.'s attorneys. Having found clear and convincing evidence that it was likely D. would be adopted, the court terminated parental rights.

## **DISCUSSION**

Appellant contends the court abused its discretion by denying the grandparents' request for de facto parent status. The problem for appellant is he lacks standing to raise this issue on appeal and thus is not entitled to our review.

Appellant must demonstrate he is in some way aggrieved by the error he claims in order to have standing to appeal. (*In re Crystal J.* (2001) 92 Cal.App.4th 186, 189-190.) He cannot urge errors which affect only others who do not appeal. (*In re Sarah M.* (1991) 233 Cal.App.3d 1486, 1503, disapproved on other grounds in *In re Chantal S.* (1996) 13 Cal.4th 196, 204.) Here, appellant can make no such showing.

Although appellant's interest in the dependency proceeding was to reunify with D. (see *In re Vanessa Z.* (1994) 23 Cal.App.4th 258, 261), that had not been possible in this case. Indeed, appellant had not even maintained a relationship with D. so he could not claim termination would be detrimental (§ 366.26, subd. (c)(1)(B)(i)). By contrast, a

successful applicant for de facto parent status has a separate interest and relationship with the child, which may have developed over time through the daily care, affection and concern for the child. (*In re Kieshia E.* (1993) 6 Cal.4th 68, 77-78.) A de facto parent's interest is not to advocate in favor of preserving the parent's rights. (*In re Vanessa Z., supra*, 23 Cal.App.4th at p. 261.)

#### **DISPOSITION**

The order terminating parental rights is affirmed.